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## **BOARD OF PUBLIC UTILITIES**

### **Service Connections**

### **Extensions of Service**

**Proposed Amendments:** N.J.A.C. 14:3-1, 3-6, N.J.A.C. 3-8 and 3-10

**Proposed Repeal:** 14:3-8.1B

Authorized By: Board of Public Utilities, Jeanne M. Fox, President, Frederick F. Butler, Connie O. Hughes and Jack Alter, Commissioners.

Authority: N.J.S.A. 48:2-13, N.J.S.A. 48:2-16; N.J.S.A. 48:2-27, 48:2-23; N.J.S.A. 48:5A-36, and N.J.S.A. 48:5A-10

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

BPU Docket Number: CX05030218 and AX05030217

Proposal Number: PRN 2005-

Submit comments by January 6, 2006 to:

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New Jersey Board of Public Utilities

Kristi Izzo, Secretary

ATTN: BPU Docket Number: CX05030218

Two Gateway Center

Newark, New Jersey 07102

The agency proposal follows:

### **Summary**

On November 16, 2004, the Board of Public Utilities (Board) adopted a set of rules, Board Docket No. AX 03120973, to ensure that its programs reflect the smart growth policy goals of the State. The rules appeared in the New Jersey Register on December 20, 2004 at 36 N.J.R 5928. These new rules govern the responsibility borne by regulated entities for the costs of certain investments in infrastructure, based on whether the development served by the infrastructure is in an area designated for growth under the State Development and Redevelopment Plan (State Plan). The adoption was the culmination of an almost year-long process; the Board had proposed the rules on January 20, 2004, at 36 N.J.R. 276(a), after which the Board held a public hearing on March 2, 2004, and a set of six stakeholder meetings during the summer of 2004.

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The Board is now proposing to amend those rules in order to more clearly define the regulated entities responsibilities and provide more specific requirements governing how the cost for an extension shall be determined and apportioned between the regulated entity and applicants for an extension. The proposed amendments will require the regulated entities to alter the formula they utilized to determine which portion of a deposit should be refunded to the applicant.

As the Board has provided a 60-day comment period on these proposed amendments, the proposed amendments are exempted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5.

A summary of the proposed amendments follows:

### **Chapter 3. All Utilities**

#### **Subchapter 1. Definitions**

##### **N.J.A.C. 14:3-1.1 Definitions**

Amendments are proposed which would replace the word utility with the term regulated entity in the definitions for “Customer” and “Residential

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Customer”. These proposed changes will more accurately delineate the entities which are meant to be encompassed under these two definitions.

## **Subchapter 6 Records**

### **N.J.A.C. 14:3-6.1 Location and examination**

The proposed amendments would replace the word “utilities” with the term “regulated entities”, which more accurately represents the entities affected by this section.

### **N.J.A.C. 14:3-6.2 Plant and operating**

In subsections (a) and (b), the proposed amendments would replace the word “utilities” with the term “regulated entities”, which more accurately represents the entities affected by this section. Further, in subsections (d), (e) and (g)<sup>2</sup> a sentence is deleted which stipulates that the subsection shall not apply to cable television operators. Proposed new subsection (h) requires regulated entities to make the determination as to whether an application for an extension will serve an area designated for growth or an area not designated for growth. Finally, proposed new subsection (i) requires all regulated entities to inform the Board how they will determine whether the requested extension

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contained in an application for an extension will serve a development in an area designated for growth or an area not designated for growth.

## **Subchapter 8 EXTENSIONS TO PROVIDE REGULATED SERVICES**

### **N.J.A.C. 14:3-8.1 Scope and applicability**

The proposed amendment to subsection (b) and (g) replaces the word “service” for the word “extension”. This will make it clear to regulated entities that this subchapter addresses applications for an extension, not applications for service.

### **N.J.A.C. 14:3-8.1B Submission of modified tariff**

This section is proposed to be repealed because it is an outdated provision and existing regulated entities have already complied with this provision, while any regulated entities that begin offering service after the effective date of these amendments will still have to comply with the requirements of 14:3-8.5(e) which contains substantially the same requirements as N.J.A.C. 14:3-8.1B.

### **N.J.A.C. 14:3-8.2 Definitions**

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The proposed amendments to this section add the definitions contained in N.J.A.C. 14:4-1.2 to the list of definitions that will be applicable to this subchapter. In addition, the proposed amendments to this section add the term “Applicant for an extension”, which is a person who has applied for an extension, as a newly defined term. In addition, the definition of “Cost” is amended to clarify that the regulated entities can base extension costs on site-specific unitized amounts. Finally, the term “Distribution revenue” is completely amended to clarify that 1) for electric utilities, transmission charges derived from FERC approved transmission charges should be subtracted from total revenue regardless of whether the transmission charges are included in the electric utility’s Basic Generation Service charge and 2) sales and use tax is included in distribution revenue. The definition of “Extension” is being changed to clarify that the rule applies to new development or redevelopment except for water and sewer, as the extension of these systems are often critical to supporting additional development.

#### **N.J.A.C. 14:3-8.3 General requirement to provide extensions**

The proposed amendments to 14:3-8.3(a) replace the phrase “to serve new development or new customers, a person” with the term “applicants for an extension”. This change will clearly delineate that it is applicants for an extension that are being referred to here.

#### **N.J.A.C. 14:3-8.4 Requirement to put certain extensions underground**

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The proposed amendment to subsection (g) sets forth that the cost of the installation and the removal of temporary facilities is governed by N.J.A.C. 14:3-8.9(h).

#### **N.J.A.C. 14:3-8.5 General provisions regarding cost of extensions**

The proposed amendment to subsection (c) will delete the word estimated. As a result, regulated entities will be required to include the tax consequences incurred as a result from receiving deposits under the Tax Reform Act of 1986 to the cost of an extension. In addition, subsection (h) will state that a regulated entity may require an applicant for an extension to pay for additional capacity, above that which is required by N.J.A.C. 14:3-8.3(e), if the extension is going to serve an area not designated for growth. Further, the proposed amendment to subsection (l) allows a regulated entity to determine the amount of the required deposit or non-refundable contribution based on site-specific unitized costs. Finally, the proposed amendment to subsection (i) will replace the phrase “applicant for service” with “applicant for extension” because this phrase better identifies the type of applicants that are referred to in this subsection.

#### **N.J.A.C. 14:3-8.7 Costs for extension serving a designated growth area**

The proposed amendment to subsection (d) would require a regulated entity that requires a deposit from an applicant to do so in accordance with the

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provisions of N.J.A.C. 14:3-8.10(b) or 8.11(b). Currently, the rule does not state that the regulated entity may require a deposit in accordance with N.J.A.C. 14:3-8.10(b) or 8.11(b).

#### **N.J.A.C. 14:3-8.8 Exemptions from cost limits on areas not designated for growth**

The proposed amendment to 8.8(a)4 would substitute the word extension for project, in order to more clearly delineate what is being referred to. Further, the proposed amendment at 8.8(a)5 would include structures that were damaged by an act that was out of the control of the customer or utility to the list of exemptions contained in this section. In addition, the proposed amendment to subsection (d) would exempt structures serving agricultural irrigations systems from the limits contained at N.J.A.C. 14:3-8.6. The proposed amendment to subsection (g) would include an exemption in instances where the installation of temporary service was begun prior to March 20, 2005. Finally, the proposed amendment to 8.8(j)2 will replace the term “project” with the term “extension”, which will make 8.8(j)2 consistent with 8.8(f).

#### **N.J.A.C. 14:3-8.9 Designated growth area suggested formulae – general provisions**



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**The proposed amendment to subsection (a)3 will replace the phrase “applicant for service” with the phrase “applicant for extension, because it better identifies the type of applicant which is referred to in this subsection. In addition,** the proposed amendment to subsection (g)3 adds overhead extensions to the type of extensions that should be considered in determining the portion of a deposit that should be refundable. The proposed amendment to (h)2 adds the costs for removal of any temporary overhead installation to the portions of the deposit which are nonrefundable.

**N.J.A.C. 14:3-8.11 Designated growth area suggested formula – single residential customer**

The proposed amendments to subsection (d) and the example provided in subsection (g) would alter the formula to require the regulated entity to provide a refund if the customer’s actual distribution revenue from the most recent year of service exceeds the greater of 1) the estimated annual distribution revenue that was used for the initial deposit, or 2) the highest actual distribution revenue from a prior year.

**N.J.A.C. 14:3-8.12 Smart growth infrastructure investment program (SGIIP)**

The proposed amendment to subsection (a) would clarify that the Smart Growth Infrastructure Investment Program automatically becomes effective when

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a municipality meets the specified requirements and does not require specific authorization from the Board.

## **SUBCHAPTER 10 TARGETED REVITALIZATION PROGRAM (TRIP)**

### **N.J.A.C. 14:3-10.3 Investments eligible for coverage under a TRIP**

The proposed amendments to (b)1 would clarify when expenditures must be made by a regulated entity in order to qualify for inclusion in its annual trip adjustment petition. Further, the proposed amendment to (c)5 clarifies that the cost of removal that a regulated entity may not recover through a TRIP includes costs for plant that is abandoned or retired in place.

### **Social Impact**

The amendments proposed herein are expected to have a beneficial social impact especially on the citizens and resources of the State. Smart Growth is a policy that is aimed at maximizing the use of public resources, including tax dollars, land and natural resources, investments in the built environment, and social and cultural institutions. It is also designed to minimize the negative impact of human development on these public resources. Over the past half-century, development patterns in New Jersey have resulted in a loss of human and financial capital, from urban and existing suburban areas, to the rural

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fringe of new development. This development pattern is commonly referred to as urban sprawl. The consequences of urban sprawl include:

- ? Severe traffic congestion caused by poor planning;
- ? Diminishing housing options as more urban areas and older suburbs become undesirable due to disinvestments and decay;
- ? Significant environmental impacts such as wildlife habitat fragmentation, vehicle air pollution, water pollution, loss of open space, and increased energy consumption;
- ? High local and state taxes and cost of public services, due to the infrastructure-intensive nature of urban sprawl;
- ? Loss and fragmentation of farmland, which threatens the way of life for agricultural communities;
- ? Segregation and fragmentation of society by race and class as poor and minority communities are left to deal with the aftermath of urban disinvestment;
- ? A diminution of our public and cultural institutions, which are primarily centered in urban centers that are designed to enable people to gather and interact.

These impacts have been well described in the New Jersey State Planning Act, N.J.S.A. 52:18A-196, which called urban sprawl one of the greatest threats to the future of the State of New Jersey.

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The Board, like most government agencies, has in the past unintentionally supported urban sprawl development by compelling regulated entity rate payers to subsidize the cost of providing new infrastructure in all areas of the state; regardless of whether this development had a positive or negative overall impact on the wellbeing of New Jersey residents and ratepayers.

The solution to urban sprawl is Smart Growth, which is characterized by well-planned, human-friendly, compact development that maximizes existing public investments and minimizes environmental and social impacts.

New Jersey's mechanism for achieving smart growth is the New Jersey State Development and Redevelopment Plan (State Plan). The State Plan was mandated by the State Planning Act and is created through a democratic and open cross-acceptance process that determines how and where public investments should be made to achieve smart growth. These rules are consistent with the principles expressed in the State Plan, and will further the goals of smart growth.

### **Economic Impact**

There is a potential for these amendments to have a minor negative economic impact on land developers, businesses and individuals in areas that are not designated as growth areas. In these areas, the developer or individual would be required to pay the entire amount of the cost of construction of the necessary utility and infrastructure cost for the development. The Board believes

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that it is appropriate for those choosing to develop in areas not designated for growth to bear the full cost of infrastructure needed to serve the development.

### **Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. The proposed amendments are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal standards analysis for this proposal.

### **Jobs Impact**

The Board does not anticipate that the proposed amendments will have an impact on employment, because the amendments do not change a company's obligation to extend its infrastructure, but rather changes how extensions are constructed and how the cost is apportioned between a regulated entity and applicant.

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### **Agriculture Industry Impact**

The Board believes that the proposed amendments will have no impact on the agriculture industry, except for a possible slight indirect impact.

### **Regulatory Flexibility Analysis**

The proposed amendments will not affect any small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. to which the proposed amendments would apply. The proposed amendments will regulate only businesses that have more than 100 full-time employees and/or that are based outside of New Jersey.

### **Smart Growth Impact**

The Board anticipates that the proposed new rules and amendments will have a positive impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan (State Plan). The State Plan is intended to "provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions" and to "identify areas for growth, agriculture, open space conservation and other appropriate designations." N.J.S.A. 52:18A-199a. Smart growth is based on the concepts of focusing new growth into redevelopment of older urban and suburban areas, protecting existing open

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space, conserving natural resources, increasing transportation options and transit availability, reducing automobile traffic and dependency, stabilizing property taxes, and providing affordable housing. The Board has proposed the rules enumerated herein to help achieve the stated goal of fostering development and redevelopment in the areas of the State that have been designated for growth.

**Full text** of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

## **CHAPTER 3 ALL UTILITIES**

### **SUBCHAPTER 1 DEFINITIONS**

#### **14:3-1.1 Definitions**

The following words and terms, when used in N.J.A.C. 14:3 through 14:10, shall have the following meanings unless clearly indicated otherwise:

.....

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"Customer" means the person identified in the account records of a **[utility]** **regulated entity** as the person responsible for payment of the **[utility]** bill **of the regulated entity**. A customer may or may not be an end user, as defined herein.

.....

"Residential customer" means a customer who receives **[utility]** service **from a regulated entity** for use in a residence.

.....

## SUBCHAPTER 6 RECORDS

### 14:3-6.1 Location and examination

Each **[utility]** **regulated entity** shall notify the Board, upon request, of the office or offices at which various records are kept. These records shall be open for examination by the Board's inspectors.

### 14:3-6.2 Plant and operating

(a) Each **[utility]** **regulated entity** shall maintain, readily available, adequate maps and/or records reflecting the latest available information and data concerning the size, type, location and date of installation of its major units of property.



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(b) Each **[utility] regulated entity** owning or operating pumping, treatment facilities or power stations or other production facilities for the purpose of furnishing service to customers shall keep for a period of one year a record of the time of starting and shutting down of all principal units of such equipment, as well as a record of pertinent related operating statistics. Each such utility shall maintain and keep in operating condition one or more graphic recording devices at central points where continuous records shall be made of the pressure or voltage at that point.

(c) (no change)

(d) By June 18, 2005, each regulated entity shall submit to the Board a procedure for the regulated entity to determine, at the time of receipt of an application for **extension** **[service]**, whether the requested extension will serve development in a designated growth area or an area not designated for growth, as defined at N.J.A.C. 14:3-8.2 ~~[This subsection shall not apply to a regulated entity that is a cable television operator.]~~

(e) Each regulated entity shall keep detailed records of all deposits, refunds, and expenditures on extensions, as defined at N.J.A.C. 14:3-8.2, with sufficient detail to enable the regulated entity to demonstrate compliance with this chapter to the

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Board. ~~[This subsection shall not apply to a regulated entity that is a cable television operator.]~~

(f) (no change)

(g) Each regulated entity shall maintain, for each calendar year, the following records:

1. The amount of trench which it has shared with other regulated entity lines or cables; and

2. The number of subdivisions, the number of lots and the number of buildings or structures, both residential and nonresidential, for which service was provided.

The regulated entity shall identify whether these are in designated growth areas or areas not designated for growth. ~~[This paragraph shall not apply to a regulated entity that is a cable television operator.]~~

**(h) Regulated entities shall determine whether an application for an extension as defined by the rules at N.J.A.C. 14:3-8.2 will serve an area designated for growth or an area not designated for growth as these terms are defined at N.J.A.C. 14:3-8.2.**

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**(i) Regulated entities shall submit to the Board a procedure by which the regulated entity shall determine, at the time of receipt of an application for an extension, whether the requested extension will serve a development in a designated growth area or an area not designated for growth. The procedure shall be submitted within 180 days after the date that the regulated entity begins to provide service.**

## SUBCHAPTER 8 EXTENSIONS TO PROVIDE REGULATED SERVICES

### 14:3-8.1 Scope and applicability

(a) This subchapter governs the construction of an extension, as defined at N.J.A.C. 14:3-8.2.

(b) This subchapter addresses whether and how a regulated entity may contribute financially to an extension made in response to an application for [service] **an extension** by a person, as these terms are defined at N.J.A.C. 14:3-1.1 and 8.2. Any other extension is not subject to this subchapter; nor is any maintenance, repair or operation of an extension; or any expansion, upgrade, improvement, or other installation of plant and/or facilities, wherever located.

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(c) – (f) (No change)

(g) This subchapter is intended to fulfill the mandate at N.J.S.A. 48:2-23 that regulated entity service be safe, adequate and proper, and furnished in a manner that tends to conserve and preserve the quality of the environment. One way in which this subchapter fulfills that mandate is through provisions that generally do not permit regulated entities to invest, in response to an application for **an extension** [service], in new infrastructure in areas that are not designated for growth.

(h) (No change)

~~[14:3-8.1B Submission of modified tariff~~

~~—Each regulated entity shall submit to the Board a modified tariff that complies with this subchapter as operative March 20, 2005 (see 36 New Jersey Register 5928(a)) by January 19, 2005.]~~

14:3-8.2 Definitions

In addition to the definitions at **N.J.A.C. 14:4-1.2** and N.J.A.C. 14:3-1.1, the

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following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

.....

**“Applicant for an extension” means a person that has applied to the appropriate regulated entity, as defined at N.J.A.C. 14:3-1, for the construction of an extension as defined at N.J.A.C. 14:3-8.2.**

...

"Cost" means, with respect to the cost of construction of an extension, actual **and/or site-specific unitized** expenses incurred for materials and labor (including both internal and external labor) employed in the design, purchase, construction, and/or installation of the extension, including overhead directly attributable to the work, as well as overrides or loading factors such as those for back-up personnel for mapping, records, clerical, supervision or general office functions.

....

**"Distribution revenue" means the total revenue, plus related Sales and Use Tax, collected by a regulated entity from a customer, minus the following, as applicable:**

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1. **For a gas public utility as defined at N.J.A.C. 14:4-2.2, Basic Gas Supply Service charges, plus related Sales and Use Tax on the Basic Gas Supply Service charges, assessed in accordance with the gas public utility's tariff; and**
2. **For an electric public utility as defined at N.J.A.C. 14:4-1.2, Basic Generation Service charges, plus Sales and Use Tax on the Basic Generation Service charges, and, unless included with Basic Generation Service Charges, transmission charges derived from FERC approved Transmission Charges, plus Sales and Use Tax on the transmission charges, assessed in accordance with the electric public utility's tariff.**

~~["Distribution revenue" means a regulated entity's total revenue, minus the following, as applicable:~~

- ~~1. For a gas public utility, as defined at N.J.A.C. 14:4-2.2, Basic Gas Supply Service charges assessed in accordance with the gas public utility's tariff; and~~
- ~~2. For an electric public utility, as defined at N.J.A.C. 14:4-1.2, Basic Generation Service charges assessed in accordance with the electric public utility's tariff.]~~

"Extension" means the construction or installation of plant and/or facilities by a regulated entity to convey **new** service from existing or new plant and/or facilities

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to one or more ~~[new customers]~~ **applicants for an extension to a structure that was: built, or rebuilt after an existing structure was demolished, and occupied after March 20, 2005,** and also means the plant and/or facilities themselves. **The provision of sewer and water service by a regulated entity shall be considered an extension regardless of the date of construction and occupancy of the structure to be served.** This term includes all plant and/or facilities for transmission and/or distribution, whether located overhead or underground, on a public street or right of way, or on a private property or private right of way, including the wire, poles of supports, cable, pipe, conduit or other means of conveying service from existing plant and/or facilities to each unit or structure to be served, except as excluded at 1 through 6 below. An extension begins at the existing infrastructure and ends as follows:

1. - 6. (no change)

#### 14:3-8.3 General requirement to provide extensions

(a) To obtain regulated services ~~[to serve new development or new customers, a person]~~ **applicants for an extension** shall apply to the appropriate regulated entity, as defined at N.J.A.C. 14:3-1.1, for construction of an extension, as defined at N.J.A.C. 14:3-8.2.

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Prior to accepting the application, the regulated entity shall provide the applicant with a copy of this subchapter. At the time of submittal of an application for an extension, the regulated entity shall obtain from the applicant in a signed certification that the applicant received a copy of this subchapter.

(b) – (e) (No change)

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#### 14:3-8.4 Requirement to put certain extensions underground

(a) – (f) ( no change)

(g) If unusual circumstances would unreasonably delay a regulated entity's ability to provide underground service, the regulated entity may install temporary facilities in whatever manner is most practical under the circumstances.

However, the regulated entity shall replace such temporary facilities as soon as practical with permanent underground service in accordance with this subchapter. **The cost of the installation and removal of the temporary facilities is governed by N.J.A.C. 14:3-8.9(h).**

[The cost of the installation and removal of the temporary facilities shall be distributed between the regulated entity and the applicant in the same way as the remainder of the extension costs under this subchapter.]



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(h) – (k) (no change)

#### 14:3-8.5 General provisions regarding costs of extensions

(a) -(b) (no change)

(c) The ~~[estimated]~~ cost of an extension for which a regulated entity receives a deposit, or receives a non-refundable contribution, shall include the tax consequences incurred by the regulated entity as a result of receiving deposits under the Tax Reform Act of 1986.

(d) – (g) (no change)

(h) There may be a case where an applicant requests an extension and the regulated entity wishes to construct additional capacity over that required under N.J.A.C. 14:3-8.3(e). If a regulated entity chooses to construct an extension or portion of an extension with additional capacity, over that which is needed to comply with N.J.A.C. 14:3-8.3(e), the regulated entity may pay for or contribute financially to the incremental cost of the additional capacity, or may require ~~[the]~~

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**an** applicant **in an area not designated for growth** to pay for it. However, if any of the additional capacity is added to serve anticipated customers in an area not designated for growth, the Board will consider this fact when considering whether the investment in additional capacity was reasonable and prudent, in determining whether to allow the regulated entity to include the cost of the additional capacity in its rate base.

(i) This subchapter does not prohibit a regulated entity from constructing an extension or performing related services in exchange for compensation. A regulated entity may contract with an applicant for [~~service~~] **an extension** to design, purchase, construct or maintain an extension on behalf of the applicant. However, the regulated entity shall be paid for the cost of constructing or installing the extension, in accordance with this subchapter.

(j)-(k) (no change)

**(l) A regulated entity may base the cost of an extension, for the purpose of determining the amount of the required deposit or non-refundable contribution, on site-specific unitized costs. The regulated entity shall determine the site-specific unitized cost by:**

1. **Sending a qualified representative to the site;**
2. **Developing a work plan that includes a list of materials needed based upon the actual extension to be constructed;**

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3. **Multiplying the quantity of each type of item on the list of materials by the cost per unit for that type of item. The cost per unit for each item listed shall reflect the material cost of that item as well as the associated labor as set forth in the definition of cost at N.J.A.C. 14:3-8.2; and**
4. **Adding up the results obtained under (l)3 above.**

14:3-8.7 Costs for extension serving a designated growth area

(a) - (c) (no change)

(d) For an extension described at (a) above, a regulated entity may require a deposit **from an applicant in accordance with N.J.A.C. 14:3-8.10(b) or 8.11(b), as applicable.** ~~[prior to construction from an applicant in any case where the regulated entity is not expected to receive a substantial portion of the revenue from the extension within the first five years after the extension is constructed.]~~ The **regulated entity shall refund the** deposit ~~[shall be refunded]~~ to the applicant in accordance with the suggested formula set forth at N.J.A.C. 14:3-8.10 or 8.11, as applicable.

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#### 14:3-8.8 Exemptions from cost limits on areas not designated for growth

(a) The following shall be exempt from the requirements for costs of extensions to serve development in an area not designated for growth at N.J.A.C. 14:3-8.6:

1. - 3. (no change)

4. An ~~project~~ extension already in progress as of March 20, 2005, as described in (g) below;

5. **When it is necessary to reestablish an equivalent level of service to an existing customer after the structure receiving that service was damaged or destroyed by a force outside the control of the customer or regulated entity such as a fire, flood or hurricane.**

**(Recodify existing 5-6 as 6-7)**

(b) An exemption described at (a)1 through [4] 5 above shall not require prior written approval from the Board. An exemption described at (a)[~~5-6~~] 6 or 7 above shall require prior written approval from Board staff.

(c) (no change)

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(d) An extension with the sole purpose of serving an agricultural building or structure whose sole use is the production, storage, packing or processing of agricultural or horticultural products, provided that a majority of these products were produced on a New Jersey commercial farm, as defined in N.J.S.A. 4:1C-3, **or an extension with the sole purpose of serving an agricultural irrigation system on a New Jersey commercial farm, as defined in N.J.S.A. 4:1C-3** shall be exempt from the limits at N.J.A.C. 14:3-8.6. The costs for an extension covered by this subsection shall be governed by the requirements for extensions to serve a designated growth area at N.J.A.C. 14:3-8.7.

(e) - (f) (no change)

(g) If construction of an extension, **or the installation of any temporary service,** has begun prior to March 20, 2005, or if a regulated entity has committed in writing to pay for or financially support the extension, prior to March 20, 2005, the extension shall be exempt.

(h) To obtain an exemption based on a significant public good, a person shall demonstrate to the Board that all of the following criteria are met:

1. -3. (no change)

(i) To obtain an exemption based on extraordinary hardship, a person shall

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demonstrate to the Board that all of the following criteria are met:

1. - 4. (no change)

(j) The cost of an extension that is exempt under this section shall be distributed as follows:

1. (no change)

2. If an extension is eligible for an exemption based on an n [project] extension in progress under (f) above, the regulated entity shall pay for or financially contribute to the extension only to the extent that it previously committed to do so in a written agreement. To the extent that the regulated entity has not committed to pay for the extension, the requirements for extensions shall serve an area not designated for growth at N.J.A.C. 14:3-8.6 shall govern;

3. – 4. (No change)

14:3-8.9 Designated growth area suggested formulae--general provisions

(a) Board staff will apply the suggested formula only if all of the following criteria are met:

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1.-2. (no change)

3. Either the regulated entity or the applicant for **an extension** ~~[service]~~ submits a request to Board staff to apply the suggested formula, based on the parties' inability to reach agreement upon the amount of the regulated entity's financial contribution to the extension.

(b) -(f) (no change)

(g) The following portions of a deposit shall be refundable under the suggested formula:

1. -2. (no change)

3. For an underground **or overhead** extension of electricity or telecommunications service, the amount it would cost to serve the customers overhead.

(h) The following portions of the deposit are nonrefundable and shall constitute a contribution in aid of construction (CIAC):

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1. (no change)

2. For an underground extension of electricity or telecommunications service, the additional cost for underground service over and above the amount it would cost to serve those customers overhead. This shall include the cost of any temporary overhead installation **and/or removal** under N.J.A.C. 14:3-8.4([h]g).

14:3-8.11 Designated growth area suggested formula--single residential customer

(a)- (c) (no change)

(d) Two years after the customer begins receiving service, the regulated entity shall calculate the distribution revenue derived from the customer's second year of service. ~~[If the year two distribution revenue is less than the year one distribution revenue, the regulated entity is not required to provide a refund. If the year two distribution revenue exceeds the year one distribution revenue, t]~~**if the actual distribution revenue from the customer's most recent year of service exceeds the greater of the amounts in (d)1 and 2 below.** The amount of the refund shall be **ten multiplied by** the difference between the ~~[year one]~~ distribution revenue



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**from the most recent year of service** and the ~~[year two distribution revenue,~~  
~~multiplied by 10]~~**higher of the following: [-]**

1. **The estimated annual distribution revenue, which was used  
as the basis for the initial deposit; or**
2. **The highest actual distribution revenue from any prior year.**

(e) -(f) (no change)

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(g) See Example B below for an illustration of the use of the suggested formula for a single residential customer:

### **EXAMPLE B**

#### **Suggested formula applied to a single residential customer**

<b>When?</b>	<b>Action</b>	<b>Amount</b>
Before construction	<p>Applicant gives deposit, determined as follows, to regulated entity:</p> <ol style="list-style-type: none"> <li>1. Estimate total cost of extension (\$ 7,500.<u>00</u>);</li> <li>2. Estimate annual distribution revenue (\$ 500.00);</li> <li>3. Multiply annual distribution revenue by 10 (\$ 5,000.<u>00</u>); and</li> <li>4. Subtract item 3 from item 1 to determine deposit.</li> </ol>	\$ 2,500. <u>00</u>
One year after Customer comes on line	<p>If first year distribution revenue is less than estimated annual distribution revenue (\$ 500.00), no refund.</p> <p>If first year distribution revenue (\$ 525.00) is more than estimated annual distribution revenue (\$ 500.00), regulated entity gives first refund to applicant. Refund is determined as follows:</p> <ol style="list-style-type: none"> <li>1. Subtract estimated annual distribution revenue (\$ 500.00) from first year distribution revenue</li> </ol>	\$ 250.00

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## EXAMPLE B

### Suggested formula applied to a single residential customer

When?	Action	Amount
	(\$ 525.00); and  2. Multiply item 1 (\$ 25.00) by 10 (\$ 250.00).	
Amount of deposit remaining with regulated entity after first refund		<b>\$ 2,250.00</b>
Two years after customer comes online	<p>If second year distribution revenue is less than first year revenue (\$ 525.00), no refund.</p> <p>If second year distribution revenue (\$ 575.00) is more than <del>[first year distribution revenue (\$ 525.00), regulated entity gives second refund to applicant.</del></p> <p><del>Refund is determined as follows:</del></p> <p><del>1. Subtract first year distribution revenue (\$ 525.00)]</del></p> <p><b><u>the greater of either the first year distribution revenue (\$ 525.00), or the estimated annual distribution revenue used as the basis for the initial deposit computation (\$500.00) regulated entity gives second refund to applicant. Refund is determined as follows:</u></b></p> <p><b><u>1. Subtract the greater of either the first year</u></b></p>	\$ 500.00

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## EXAMPLE B

### Suggested formula applied to a single residential customer

When?	Action	Amount
	<p><b><u>distribution revenue (\$ 525.00) or the estimated annual distribution revenue used as the basis for the initial deposit computation (\$ 500.00)</u></b></p> <p>from second year distribution revenue (\$ 575.00); and</p> <p>2. Multiply item 1 (\$ 50.00) by 10 (\$ 500.00).</p>	
	Amount of deposit remaining with regulated entity after second refund	<b>\$ 1,750.<u>00</u></b>
Continue with this process each year, until 10 years has passed or deposit is completely refunded, whichever comes first.		

#### 14:3-8.12 Smart growth infrastructure investment program (SGIIP)

(a) This section sets forth ~~[the process by which]~~ **the process to cover** ~~[the Board may authorize coverage of]~~ certain infrastructure investments under a smart growth infrastructure investment program (SGIIP). Under a SGIIP, the costs of infrastructure shall be governed by the same rules that apply to extensions serving designated growth areas at N.J.A.C. 14:3-8.7, except that the following shall apply:

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1. -2. (no change)

(b) -(c) (no change)

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## SUBCHAPTER 10 TARGETED REVITALIZATION PROGRAM (TRIP)

### 14:3-10.3 Investments eligible for coverage under a TRIP

(a) (no change)

(b) To be eligible for coverage under a TRIP, infrastructure shall, in addition to meeting the requirements of (a) above, meet both of the following criteria:

1. The investments shall reflect actual expenditures made by the regulated entity prior to the submittal of an **annual TRIP adjustment** petition **pursuant to N.J.A.C. 14:3-10.5, to cover the investments** ~~[for approval or adjustment of a TRIP charge to cover the investments]~~; and

2. (no change)

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(c) A regulated entity shall not recover the following costs through a TRIP:

1. - 4. (no change)

5. **Costs incurred in connection with the retirement from service and the disposition of existing depreciated infrastructure including costs incurred for plant that is abandoned or retired in place;** ~~[Removal of existing depreciated infrastructure;]~~

6-8 (no change)

(d) -(g) (no change)